

Notice of Allowability

Application No.

09/763,902

Examiner

Robert A. Wax

Applicant(s)

TANG ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed June 28, 2004.
2. ☒ The allowed claim(s) is/are 22-24, 26, 28-31, 35, 36 and 39.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 08192004 .
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert Norway on August 19, 2004.

The application has been amended as follows:

After entry of the following amendments the status of the claims will be:

Canceled claims: 1-21, 25, 27, 32-34, 37 and 38

Allowed claims: 22-24, 26, 28-31, 35, 36 and 39

Cancel claims 21, 25, 27, 32-34, 37 and 38.

Amend claim 22:

22. (Amended) An isolated polynucleotide encoding a polypeptide [of claim 21] selected from the group consisting of:

- a) a polypeptide comprising an amino acid sequence of SEQ ID NO: 2, SEQ ID NO: 3, SEQ ID NO: 5, SEQ ID NO: 7 or SEQ ID NO: 8, and
- b) a polypeptide comprising an amino acid sequence at least 90%

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identical to an amino acid sequence of SEQ ID NO: 2, SEQ ID NO: 7 or
SEQ ID NO: 8.

Amend claim 26:

26. (Previously presented) A method of producing a polypeptide [of claim 21]
selected from the group consisting of: a) a polypeptide comprising an amino acid
sequence of SEQ ID NO: 2, SEQ ID NO: 3, SEQ ID NO: 5, SEQ ID NO: 7 or
SEQ ID NO: 8, and b) a polypeptide comprising an amino acid sequence at least
90% identical to an amino acid sequence of SEQ ID NO: 2, SEQ ID NO: 7 or
SEQ ID NO: 8, the method comprising:

[a] i) culturing a cell under conditions suitable for expression of the
polypeptide, wherein said cell is transformed with [a recombinant
polynucleotide, and said recombinant polynucleotide comprises a
promoter sequence operably linked to a polynucleotide encoding the polypeptide
of claim 21] the polynucleotide of claim 22 operably linked to a promoter
sequence, and

[b] ii) recovering the polypeptide so expressed.

Amend claim 35:

35. (Amended) An isolated polynucleotide encoding a polypeptide [of claim 34] comprising an amino acid sequence selected from the group consisting of SEQ ID NO: 2, SEQ ID NO: 3, SEQ ID NO: 5, SEQ ID NO: 7 and SEQ ID NO: 8.

Amend claim 36:

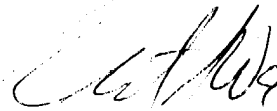
36. (Amended) An isolated polynucleotide of claim 35 comprising a polynucleotide sequence selected from the group consisting of SEQ ID NO: 10, SEQ ID NO: 11, SEQ ID NO: 13, SEQ ID NO: 15 and SEQ ID NO: 16.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Wax whose telephone number is (571) 272-0623. The examiner can normally be reached on Monday through Friday, between 9:00 AM and 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon P. Weber can be reached on (571) 272-0925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Robert A. Wax
Primary Examiner
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